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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals  
20 Massachusetts Ave. N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

DATE: SEP 18 2013

OFFICE: NEBRASKA SERVICE CENTER

File: [REDACTED]

IN RE: [REDACTED]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Nebraska Service Center Director denied the waiver application and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by willful misrepresentation. The record indicates that the applicant is the spouse of a U.S. citizen and the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States.

The director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601), accordingly. *See Decision of the Service Center Director*, dated October 26, 2012.

On appeal the applicant's spouse contends that he is suffering extreme hardship as a result of the applicant's inadmissibility. *See Spouse's Letter in Support of Form I-290B, Notice of Appeal or Motion* (Form I-290B), received November 21, 2012.

The record contains, but is not limited to: Form I-290B; various immigration applications and petitions; letters from the applicant's spouse, the applicant, and their relatives; letters of character reference and support; and financial records. The record also contains several Spanish-language documents that are not accompanied by full, certified English translations as required under 8 C.F.R. § 103.2(b)(3).<sup>1</sup> These documents appear to include newspaper clippings, letters, medical records, billing statements and receipts. Because the required translations were not submitted for these documents, the AAO will not consider them in this proceeding. The entire record, with the exception of the Spanish-language documents unaccompanied by full, certified English translations, was reviewed and considered in rendering this decision on the appeal.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

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<sup>1</sup> 8 C.F.R. § 103.2(b)(3). Translations. Any document containing foreign language submitted to United States Citizenship and Immigration Services (USCIS) shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

The record shows that in or about July 2001, the applicant attempted to acquire a tourist visa at the Presidio, Texas, port of entry using false identification documents and was refused admission to the United States. Based on the foregoing, the applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i). The record supports this finding, the applicant does not contest inadmissibility, and the AAO concurs that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act.

A waiver of inadmissibility under section 212(i) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant can be considered only insofar as it results in hardship to a qualifying relative. In the present case, the applicant's spouse is her only qualifying relative. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Morales*, 21 I&N Dec. 296, 301 (BIA 1996).

Extreme hardship is "not a definable term of fixed and inflexible content or meaning," but "necessarily depends upon the facts and circumstances peculiar to each case." *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). In *Matter of Cervantes-Gonzalez*, the Board provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 22 I&N Dec. 560, 565 (BIA 1999). The factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate. *Id.* The Board added that not all of the foregoing factors need be analyzed in any given case and emphasized that the list of factors was not exclusive. *Id.* at 566.

The Board has also held that the common or typical results of removal and inadmissibility do not constitute extreme hardship, and has listed certain individual hardship factors considered common rather than extreme. These factors include: economic disadvantage, loss of current employment, inability to maintain one's present standard of living, inability to pursue a chosen profession, separation from family members, severing community ties, cultural readjustment after living in the United States for many years, cultural adjustment of qualifying relatives who have never lived outside the United States, inferior economic and educational opportunities in the foreign country, or inferior medical facilities in the foreign country. See generally *Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 883 (BIA 1994); *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (Comm'r 1984); *Matter of Kim*, 15 I&N Dec. 88, 89-90 (BIA 1974); *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968).

However, though hardships may not be extreme when considered abstractly or individually, the Board has made it clear that "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." *Matter of O-J-O-*,

21 I&N Dec. 381, 383 (BIA 1996) (quoting *Matter of Ige*, 20 I&N Dec. at 882). The adjudicator “must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation.” *Id.*

The actual hardship associated with an abstract hardship factor such as family separation, economic disadvantage, cultural readjustment, et cetera, differs in nature and severity depending on the unique circumstances of each case, as does the cumulative hardship a qualifying relative experiences as a result of aggregated individual hardships. *See, e.g., Matter of Bing Chih Kao and Mei Tsui Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* regarding hardship faced by qualifying relatives on the basis of variations in the length of residence in the United States and the ability to speak the language of the country to which they would relocate). For example, though family separation has been found to be a common result of inadmissibility or removal separation from family living in the United States can also be the most important single hardship factor in considering hardship in the aggregate. *See Salcido-Salcido*, 138 F.3d at 1293 (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9th Cir. 1983)); *but see Matter of Ngai*, 19 I&N Dec. at 247 (separation of spouse and children from applicant not extreme hardship due to conflicting evidence in the record and because applicant and spouse had been voluntarily separated from one another for 28 years). Therefore, we consider the totality of the circumstances in determining whether denial of admission would result in extreme hardship to a qualifying relative.

The applicant’s spouse is a 37 year-old native and citizen of the United States who asserts he is experiencing extreme economic and emotional hardship. He indicates that he and the applicant met in Mexico and married in 2007, when she was paroled into the United States because of a humanitarian family matter. The applicant’s spouse states that life has not been fair to them, they have been unable to fulfill their dreams of living together and having a child in the United States, and at times he cannot focus on his work wondering what will become of his marriage. He explains that his job in Arizona keeps him on the road and away from the applicant in Mexico more than he would like, and he must sometimes take time off work to visit her. The applicant’s spouse also worries about the applicant’s safety in Ojinaga, Chihuahua, Mexico because of the crime there. While letters from relatives reflect similar concerns, the record contains no country-conditions reports or other probative evidence demonstrating that the applicant is in danger in Ojinaga, where she has resided her entire life, or that the applicant’s spouse’s concerns for the applicant’s safety have affected his emotional or physical well-being to an extent beyond that ordinarily associated with separation from an inadmissible loved one. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant’s spouse states that he fully supports the applicant’s household in Ojinaga. Spanish-language receipts without translations were submitted on appeal. However, the applicant indicates on Form G-325A, Biographical Information that she has lived in the same house since her birth in 1980, presumably with her family. On the same form she notes that she worked as a [REDACTED] from 1998 until March 2007, when she became a housewife. The applicant’s

spouse indicates that the applicant tries to work in Ojinaga but things are difficult financially there. The evidence in the record does not demonstrate that without her spouse's financial contribution, the applicant would be unable to support herself. Moreover, the applicant's spouse writes that the applicant requires a costly medical procedure to assist her in conceiving a child. As discussed, the Spanish-language medical documents submitted without certified English translations cannot be considered in these proceedings. Costs associated with the medical procedure referenced have not been demonstrated by documentary evidence in the record, nor does the record include evidence of the procedure's nature or necessity. Additionally, the record contains no documentary evidence of the applicant's spouse's employment or income. As noted by the director, the applicant's spouse's bank transactions and lodging expenses appear to reflect his employment-related costs of living and working "on the road," and have not been shown to be related to his separation from the applicant. The evidence submitted also does not show that the applicant's spouse is unable to meet his financial obligations in the United States while supporting the applicant, as he has throughout their marriage. Although residing without the applicant in the United States during their marriage has been a challenge for the applicant's spouse, the economic, emotional and physical difficulties described have not been distinguished from those ordinarily associated with separation as a result of a loved one's inadmissibility.

The AAO acknowledges that separation from the applicant has caused difficulties for the applicant's spouse. However, we find the evidence in the record insufficient to demonstrate that the challenges he has encountered, considered cumulatively, meet the extreme-hardship standard.

Addressing the hardship he would experience upon relocation to Mexico, the applicant's spouse states that living in Mexico is very hard for him as he was born in the United States and all of his dreams are here with his family. His parents write that they live on a fixed income and cannot afford to travel over the border. They also reference Mexico's crime rate, express fear for his safety, and aver that they are experiencing medical issues from stress related to his absence. The applicant's spouse states that it is financially very difficult in Ojinaga, but the record lacks economic or employment evidence demonstrating that he would be unable to secure employment in Mexico or continue visiting his family in Texas if he chooses to relocate.

The AAO has considered cumulatively all assertions of relocation-related hardship to the applicant's spouse, including adjusting to a country in which he has resided only temporarily to be with the applicant; his close family ties to the United States, including his parents and siblings; the loss of his current employment in the United States; and his asserted economic, employment and safety concerns regarding Mexico. Considered in the aggregate, the AAO finds the evidence insufficient to demonstrate that the applicant's U.S. citizen spouse would suffer extreme hardship were he to relocate to Mexico to join her.

The applicant has, therefore, not demonstrated that the challenges her spouse faces are unusual or beyond the common results of removal or inadmissibility. Accordingly, the AAO finds that the applicant has not shown her inadmissibility results in extreme hardship to a qualifying relative. As the applicant has not established extreme hardship to a qualifying family member, no purpose would be served in determining whether he merits a waiver as a matter of discretion.

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*NON-PRECEDENT DECISION*

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In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.